

IN THE UNITED STATES COURT OF FEDERAL CLAIMS

HEALTH REPUBLIC INSURANCE
COMPANY,

Plaintiff,
on behalf of itself and all others
similarly situated,

vs.

THE UNITED STATES OF AMERICA,

Defendant.

Case No. 16-259C

Judge Kathryn C. Davis

**PLAINTIFF’S MOTION FOR LEAVE TO DISTRIBUTE FUNDS
TO FREELANCERS AND ARCHES SUBCLASSES**

On June 3, 2021, the Court entered a Rule 54(b) judgment in favor of Freelancers Co-Op of New Jersey, Inc. (“Freelancers”) in the amount of \$23,301,140.37 for risk corridors benefit years 2014 and 2015. Dkt. 124. Currently pending before the Court is Class Counsel’s motion for approval of its attorneys’ fee request related to Freelancers. Dkt. 130. Class Counsel requested 5% of the judgment as attorneys’ fees. *Id.* at 10.

On June 28, 2021, the Court entered a Rule 54(b) judgment in favor of Arches Mutual Insurance Company (“Arches”) for risk corridors benefit years 2014 and 2015, with a net payable amount to Arches of \$44,728,203.21. Dkt. 131. Currently pending before the Court is class counsel’s motion for approval of its attorneys’ fee request related to Arches. Dkt. 134. Class counsel requested 5% of the judgment as attorneys’ fees. *Id.* at 10.

Both Freelancers and Arches indicated that they do not object to the attorneys’ fees sought by Class Counsel, provided that Freelancers and Arches are kept in the same position vis-

à-vis attorneys' fees as the Non-Dispute Subclass members in the *Health Republic* and *Common Ground* cases.¹

On July 29, 2021, JND Legal Administration, the claims administrator retained by Class Counsel, received payment for the full net amount owed to Freelancers from the United States Department of Treasury Judgment Fund: \$23,301,140.37. On August 2, 2021, JND Legal Administration, the claims administrator retained by class counsel, received payment for the full net amount owed to Arches from the United States Department of Treasury Judgment Fund: \$44,728,203.21. Although Class Counsel's attorneys' fee motions are still pending, Plaintiff and Class Counsel do not believe that there is any reason to delay distribution of funds to Freelancers or Arches. Specifically, Plaintiff seeks leave for the claims administrator to distribute 95% of the funds paid pursuant to the judgment, while holding the remaining 5% in escrow pending resolution of the fee petitions. Plaintiff proposes that the fees be distributed *pro rata*, with each class member receiving 95% of the funds owed to them. Specifically, \$22,136,083.35 should be distributed to Freelancers, and \$42,491,793.05 should be distributed to Arches.

Plaintiff and Class Counsel seek leave of Court to proceed with distributing 95% of these funds now. They believe that is the most efficient and expeditious manner of distributing funds pursuant to the Court's judgments. Class Counsel has conferred with the Government, which indicated that it takes no position on this request.

¹ See Dkts. 84; 93. See also *Common Ground Healthcare Cooperative v. United States*, Case No. 1:17-cv-00877, Dkts. 107; 116.

Dated: August 6, 2021

Respectfully submitted,

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/s/ Stephen Swedlow

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*Attorneys for Plaintiff Health Republic
Insurance Company and the Class*

CERTIFICATE OF SERVICE

I certify that on August 6, 2021, a copy of the attached was served via the Court's CM/ECF system on all counsel of record.

s/ Stephen Swedlow
Stephen Swedlow